

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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MARISELA LEON MARTINEZ,

Case No. 2:17-CV-2454 JCM (GWF)

Plaintiff(s),

ORDER

V.

MGM GRAND HOTEL LLC,

Defendant(s).

Presently before the court is defendant MGM Grand Hotel LLC's motion to dismiss. (ECF No. 8). Plaintiff Marisela Martinez has not filed a response, and the time for doing so has since passed.

Local Rule 7-2(d) states that “[t]he failure of an opposing party to file points and authorities in response to any motion, except a motion under Fed. R. Civ. P. 56 or a motion for attorney’s fees, constitutes a consent to the granting of the motion.”

“Failure to follow a district court’s local rules is a proper ground for dismissal.” *Ghazali v. Moran*, 46 F.3d 52. In *Ghazali*, defendants filed a motion to dismiss. *Id.* at 53. Plaintiff, who represented himself *pro se*, failed to oppose defendant’s motion. *Id.* at 54. The court granted defendant’s motion based on plaintiff’s failure to file an opposition. *Id.* at 53. The Ninth Circuit upheld the decision of the district court. *Id.* at 54. “[P]ro se litigants are bound by the rules of procedure. [Plaintiff] did not follow them, and his case was properly dismissed.” *Id.*

“Before dismissing an action [for failure to follow local rules], the district court is required to weigh several factors: ‘(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy

1 favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions.”” *Id.*
2 (quoting *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986)).

3 Here, as plaintiff has not opposed the motion to dismiss, she has consented to the granting
4 of the motion. LR 7-2(d). Further, the *Ghazali* factors favor dismissal of plaintiff’s complaint.
5 See 46 F.3d at 54. Plaintiff’s failure to respond to defendant’s motion prejudices defendant and
6 strains the court’s ability to manage its docket. *See id.* In addition, the court has reviewed
7 defendant’s motion, and the motion presents meritorious arguments that favor dismissal of
8 plaintiff’s complaint.

9 As the court will grant defendant’s motion based on plaintiff’s failure to respond, which
10 defendant highlights in its notice of non-opposition, (ECF No. 13), the court will dismiss plaintiff’s
11 complaint without prejudice.

12 Accordingly,

13 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendant’s motion to
14 dismiss (ECF No. 8) be, and the same hereby is, GRANTED, consistent with the foregoing.

15 IT IS FURTHER ORDERED that plaintiff’s complaint be, and the same hereby is,
16 DISMISSED WITHOUT PREJUDICE.

17 The clerk shall enter judgment accordingly and close the case.

18 DATED June 5, 2018.

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20 UNITED STATES DISTRICT JUDGE